



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR           | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|--------------------------------|---------------------|------------------|
| 10/531,138      | 09/16/2005  | Nicholas Andrew Murray Drought | 920602-99275        | 4556             |

23644 7590 11/29/2006

BARNES & THORNBURG LLP  
P.O. BOX 2786  
CHICAGO, IL 60690-2786

|          |
|----------|
| EXAMINER |
|----------|

KUMAR, RAKESH

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3654

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/531,138

Applicant(s)

NICHOLAS ANDREW MURRAY  
DROUGHT

Examiner

Rakesh Kumar

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed 09/25/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9 and 11-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☒ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **Final Rejection**

Claims 4 and 10 cancelled by the applicant in Amendment filed 09/25/2006.

#### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. In particular, see specifications page 1, line 12 (The reference in question is US 5791513 which is stated in the Specifications but is not included in the Information Disclosure Statement (IDS) form submitted 03/20/2006, it is suggested the above mentioned reference be included in the IDS form).

#### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the receiving means being moveable (claim 1 line 5) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

Art Unit: 3654

replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 1. Claim 1 recites the limitations "either one of the abutment means and the receiving means being moveable to cause a collapsing force" on line 5.

Art Unit: 3654

It is unclear as to whether the abutment means or the receiving means are both movable or just one of the means stated above is movable. In the view of the Office, as shown by the applicant's drawings it is understood the abutment means is movable and the receiving means is stationary. Appropriate action is required.

Referring to claim 1. Claim 1 recites the limitations "biasing means for urging the receiving means into engagement with the blister pack" on line 7. It is unclear as to how the receiving means is urged into engagement with the blister pack. It is generally understood and broadly construed by the Office to urging the abutment means. Appropriate action is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 11, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by George et al. (U.S. Patent Number 5,909,822).

Referring to claim 1. George discloses an apparatus for releasing tablets (Figure 1A) from a blister pack (10) having a plurality of tablets (36) contained in corresponding blisters (30),

the apparatus comprising abutment means (18; Figure 1A), receiving means (comprising front receiving area of 12 forming shoulder 17; Figure 1A) for receiving a blister pack (10) with any selected one of a plurality of blisters (30) of the pack in registry with the abutment means (18; Figure 1A), the receiving means comprising a pair of opposed jaw (bottom and top portions of 12 creating opening for 10), either one of the abutment means (18) and the receiving means (12;17) being moveable to cause a collapsing force to be exerted on a selected blister (30) thereby to release a tablet (36) from the blister (30),

wherein the apparatus includes biasing means (26) for urging the receiving means (12;17) into engagement with the blister pack (10), and

the receiving means (12;17) is so arranged that said engagement releasably retains, and locates (see member 128 engaging indentations 132; Figure 9A), the blister pack (10) in position relative to the abutment means (18) prior to the release of the tablet (36), and wherein the biasing means (26) is operable to bias the jaws (bottom and top portions of 12 creating opening for 10) into a neutral position, in which they are spaced apart so as to be able to receive a blister pack.

wherein the receiving means (12;17) comprises a pair of opposed jaws (see member 12 in vicinity of member 17 around blister pack 10, there are a pair of upper and lower jaws used to hold the blister pack in place; Figure 1A).

Referring to claims 2,6,7 and 16. See claim 3 and 4. George discloses an apparatus for releasing tablets (Figure 1A) from a blister pack (10),

wherein the abutment means (18) is moveable towards a blister of a pack (10) retained in the receiving means (12;17). In addition, the biasing means (26) is integrally formed with the upper jaw.

Referring to claim 3. George discloses an apparatus for releasing tablets (Figure 1A) from a blister pack (10),

wherein the receiving means (12;17) is arranged to receive a blister pack (10) so that the selected blister (30) faces the abutment means (18), the latter being operable to exert said collapsing force by directly engaging the blister (30).

Referring to claim 5. George discloses an apparatus for releasing tablets (Figure 1A) from a blister pack (10),

wherein one of the jaws (upper jaw; Figure 1A) is so shaped (see opening at cavity 112; Figure 9A) as to locate a selected blister (30) in registry with the abutment means (18), and has a recess of a complimentary shape to that of a blister (such that the blister pack 10 can be inserted into housing 12; Figure 1A).

Referring to claims 11 and 15. Regarding claim 10, George discloses an apparatus for releasing tablets (Figure 1A) from a blister pack (10),

wherein the biasing means (26) is operable to bias the jaws into a neutral position (see position of jaws in Figure 1A), in which they are spaced apart so as to be able to receive a blister pack (10).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8,9 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over George.

Referring to claims 8 and 9. George discloses a tablet dispensing apparatus (Figure 9A) wherein the biasing means (104) comprises a resiliently flexible u-shaped (Figure 9B) connecting arm (102).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the biasing means (26) as taught by the George in the apparatus of Figure 1A and include a resiliently flexible u-shaped connecting arm (102; see Figures 9A and 9B) as a biasing means as taught in the apparatus of George in Figure 9A and 9B because a biasing mean integrally formed on a resilient arm would reduce the number of parts in the dispenser thus reduce manufacturing cost.

Referring to claims 12-14. See claims above. It would have been an obvious mater of design choice to use a compressible material as a biasing means, since



applicant has not disclosed a compressible material solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with a spring based biasing means as disclosed in the apparatus George in Figure 1A.

It would have been further obvious to one of ordinary skill in the art at the time the invention was made to have modified apparatus of George and include a compressible protective sleeve around the biasing member (26) thus preventing debris from entering the dispensing chamber.

### ***Response to Arguments***

Applicant's arguments filed 09/25/2006 have been fully considered but they are not persuasive. See rejection above.

In response to the Applicant's argument, "George et al. does not disclose apparatus including biasing means for urging receiving means into engagement with a blister." In the view of the Office George et al. clearly discloses a biasing means (26) for urging the abutment means (18) into engagement with the blister. It is to be noted that the applicants drawings do not show or indicate the receiving means as movable. As shown in the Applicants drawing Figure 3A and 4A plunger (30; abutment means) engages the top of the blister pack and the receiving means does not engage the blister pack.

In regards to the Applicant's arguments "the receiving means comprises a pair of opposed jaws" is mistaken. In the view of the Office the entrance opening for the blister

pack (10; Figure 1A) in combination with the plunger chamber (15) form the top portion of the opposing jaw and the material between the outside and the dispenser channel (16) form the bottom portion of the jaw. Applicant's attention is directed to the Applicant's Figure 1 wherein the top opposing jaw (12) is generally tubular.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

Art Unit: 3654

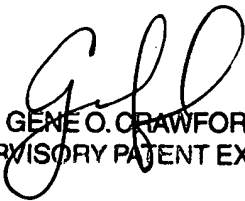
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see

<http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RK  
November 24, 2006

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER